

PETITION OF APPEAL FROM DECISION OF
MIAMI-DADE COUNTY COMMUNITY ZONING APPEALS BOARD
TO THE BOARD OF COUNTY COMMISSIONERS

CHECKED BY AG AMOUNT OF FEE 853.29

RECEIPT # I200308586

DATE HEARD: 6/24/03

BY CZAB # 15

RECEIVED
JUL 14 2003

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
DATE RECEIVED STAMP
BY _____

This Appeal Form must be completed in accordance with the "Instruction for Filing an Appeal" and in accordance with Chapter 33 of the Code of Miami-Dade County, Florida, and return must be made to the Department on or before the Deadline Date prescribed for the Appeal.

RE: Hearing No. 203-18 (03-5-CZ15-1)

Filed in the name of (Applicant) Martina Borek, et al.

Name of Appellant, if other than applicant _____

Address/Location of APPELLANT'S property: 12110 S.W. 248th Street
Miami, FL

Application, or part of Application being Appealed (Explanation):

This is an appeal of the denial of the referenced application for rezoning by CZAB 15.

Appellant (name): Martina M. Borek, Martina M. Borek, Trustee
hereby appeals the decision of the Miami-Dade County Community Zoning Appeals Board with reference to the above subject matter, and in accordance with the provisions contained in Chapter 33 of the Code of Miami-Dade County, Florida, hereby makes application to the Board of County Commissioners for review of said decision. The grounds and reasons supporting the reversal of the ruling of the Community Zoning Appeals Board are as follows:
(State in brief and concise language)

The referenced application is consistent with the CDMP and
received a staff recommendation for approval. No substantial
competent evidence was presented to CZAB 15 contrary to the
staff recommendation. This warrants reversal under applicable

case law.
Page 1

APPELLANT MUST SIGN THIS PAGE

Date: 14 day of July, year: 2003

Signed

Martina Borek

Martina Borek

Print Name

12110 SW 248 ST

Mailing Address

305-258-5256

Phone

305-258-8984

Fax

REPRESENTATIVE'S AFFIDAVIT

If you are filing as representative of an
association or other entity, so indicate:

Representing

Signature

Print Name

Address

City

State

Zip

Telephone Number

Subscribed and Sworn to before me on the 14th day of JULY, year 2003

Judith E. Robertson
Notary Public



Judith E. Robertson
Commission #DD220794
Expires: Jun 08, 2007
Bonded Thru
Atlantic Bonding Co., Inc.

(stamp/seal)

Commission expires:

APPELLANT'S AFFIDAVIT OF STANDING
(must be signed by each Appellant)

STATE OF FLORIDA

COUNTY OF MIAMI DADE

Before me the undersigned authority, personally appeared Martina Borek
(Appellant) who was sworn and says that the Appellant has standing to file the attached appeal
of a Community Zoning Appeals Board decision.

The Appellant further states that they have standing by virtue of being of record in Community
Zoning Appeals Board matter because of the following:

(Check all that apply)

- ☒ 1. Participation at the hearing
☒ 2. Original Applicant
☐ 3. Written objection, waiver or consent

Appellant further states they understand the meaning of an oath and the penalties for perjury,
and that under penalties of perjury, Affiant declares that the facts stated herein are true.

Further Appellant says not.

Witnesses:

[Signature]
Signature

W Tucker Gibbs
Print Name

[Signature]
Signature

Ilma Wiss
Print Name

Martina Borek
Appellant's signature

Martina Borek
Print Name

Sworn to and subscribed before me on the 14th day of JULY, year 2003.

Appellant is personally known to me or has produced _____ as
identification.



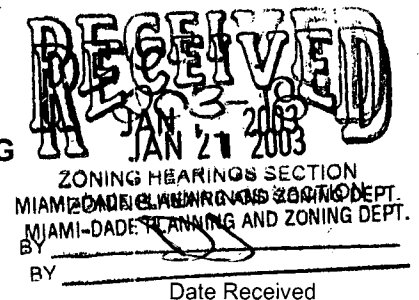
Judith E. Robertson
Commission #DD220794
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[Signature]
Notary
(Stamp/Seal)

Commission Expires:

| | | |
|------|------|-------|
| Sec. | Twp. | Range |
|------|------|-------|

**ZONING HEARING APPLICATION
MIAMI-DADE COUNTY
DEPARTMENT OF PLANNING & ZONING**



LIST ALL FOLIO #S: 6925-000-0080
6925-000-0100

Date Received

- 1. NAME OF APPLICANT** (Provide complete name of applicant, exactly as recorded on deed, if applicable. If applicant is a lessee, an executed 'Owner's Sworn-to-Consent' and copy of a valid lease for 1 year or more is required. If the applicant is a corporation, trust, partnership, or like entity, a 'Disclosure of Interest' is required).

Martina M. Borek

Martina M. Borek, Trustee

2. APPLICANT'S MAILING ADDRESS, TELEPHONE NUMBER:

Mailing Address: 12110 S.W. 248th Street

City: Princeton State: FL Zip: 33032c Phone#: 305-258-5256

3. OWNER'S NAME, MAILING ADDRESS, TELEPHONE NUMBER:

Owner's Name (Provide name of ALL owners) Martina M. Borek, Martina M. Borek, Trustee

Mailing Address: 12110 S.W. 248th Street

City: Princeton State: FL Zip: 33032 Phone#: 305-258-5256

4. CONTACT PERSON'S INFORMATION:

Name: W. Tucker Gibbs Company: Gibbs & Wiss

Mailing Address: P.O. Box 1050

City: Coconut Grove State: FL Zip: 33133

Phone#: 305-448-8486 Fax#: 305-448-0773 E-mail: wtuckergibbs@mindspring

.com

5. LEGAL DESCRIPTION OF ALL PROPERTY COVERED BY THE APPLICATION

(Provide complete legal description, i.e., lot, block, subdivision name, plat book & page number, or metes and bounds. Include section, township, range. If the application contains multiple rezoning requests, then a legal description for each sub-area must be provided. Attach separate sheets as needed. In addition to paper version it is requested that lengthy metes and bounds description be provided on disquette or compact disc in Microsoft Word or compatible software.)

Pleas see Exhibit "A"

EXHIBIT "A"

DESCRIPTION

10 " The West½ of the NW¼ of the NW¼ of the NE¼ of Section 25, Township 56 South, Range 39 East, Miami-Dade County, Florida, Less the North 35 feet for Right of Way,

-AND-

PARCEL "A" - The East½ of the East½ of the NE¼ of the NW¼ of Section 25, Township 56 South, Range 39 East, also known as the East 10 Acres, more or less, of the NE¼ of the NW¼ of Section 25, Township 56 South, Range 39 East, Miami-Dade County, Florida; LESS PARCEL "C," described as follows: All that part of the East½ of the East½ of the NE¼ of the NW¼ of Section 25, Township 56 South, Range 39 East, lying Southwesterly of the following described line to wit: From the Center of said Section 25, bear to the North 0°36'07" West, along the East line of the NW¼ of said Section 25, a distance of 1346.07 feet to the Southeast corner of the NE¼ of the NW¼ of said Section 25; thence South 88°15'00" West, along the South line of the NE¼ of the NW¼ of said Section 25, a distance of 185.99 feet to the Point of Beginning of said Parcel "C"; thence run North 45°37'47" West, a distance of 128.79 feet to the Point of Curvature of a circular curve to the right, having a central angle of 45°00'00" and a radius of 210 feet; thence run Northwesterly, along the arc of said curve, a distance of 164.93 feet to the intersection thereof with the West line of the East½ of the East½ of the NE¼ of the NW¼ of said Section 25, and the end of the specifically described line.

-AND-

PARCEL "B" - A parcel of land in the East½ of the SE¼ of the NW¼ of Section 25, Township 56 South, Range 39 East, Miami-Dade County, Florida, being more particularly described as follows: From the Center of said Section 25, bear North 0°36'07" West along the East line of the NW¼ of said Section 25, a distance of 1036.36 feet to the Point of Beginning of the parcel to be described (Parcel "B"); thence continue North 0°36'07" West along said East line, a distance of 309.71 feet to the Northeast corner of the East½ of the SE¼ of the NW¼ of said Section 25; thence run South 88°15'00" West along the North line of the East½ of the SE¼ of the NW¼ of said Section 25, a distance of 185.99 feet; thence South 45°37'47" East, a distance of 142.66 feet to the Point of Curvature of a circular curve to the right, having a central angle of 45°01'40" and a radius of 290 feet; thence run Southeasterly along the arc of said curve, a distance of 227.91 feet to a Point of Tangency and the Point of Beginning.

EXHIBIT "B"

Structures on the Property:

1. 1-Story CBS House With Pool
2. Barn
3. 1-Story CBS and Wood-Frame Building
4. Storage Building

6. ADDRESS OR LOCATION OF PROPERTY (For location, use description such as NE corner of, etc.)

12110 S.W. 248th Street

Princeton, FL 33032

7. SIZE OF PROPERTY _____ ' x _____ ' (in acres) 15.789 acres
(divide total sq. ft. by 43,560 to obtain acreage)

8. DATE property ☒ acquired ☐ leased: "C"-1980
"A", "B"-1984 **9. Lease term:** _____ years
(month & year)

10. IF CONTIGUOUS PROPERTY IS OWNED BY THE SUBJECT PROPERTY OWNER(S), provide complete legal description of said contiguous property. (See notes related to item 5.)
n/a

11. Is there an option to purchase ☐ or lease ☐ the subject property or property contiguous thereto?
☒ no ☐ yes (If yes, identify potential purchaser or lessee and complete 'Disclosure of Interest' form)

12. PRESENT ZONING CLASSIFICATION: Agricultural "AU"

13. APPLICATION REQUESTS (Check all that apply and describe nature of the request in space provided)

- ☒ District Boundary Changes (DBC) [Zone class requested]: "RU-1 MA"
- ☐ Unusual Use: _____
- ☐ Use Variance: _____
- ☐ Non-use Variance: _____
- ☐ Alternative Site Development: _____
- ☐ Special Exception: _____
- ☐ Modification of previous resolution/plan: _____
- ☐ Modification of Declaration or Covenant: _____
- ☐ _____

14. Has a public hearing been held on this property within the last year & a half? ☒ no ☐ yes.
If yes, provide applicant's name, date, purpose and result of hearing, and resolution number:

15. Is this application as a result of a violation notice? ☒ no ☐ yes. If yes, give name to whom the violation notice was served: _____ and describe the violation:

16. Describe structures on the property: Please see Exhibit "B"

17. Is there any existing use on the property? ☐ no ☒ yes. If yes, what use and when established?

Use: Agricultural use Year: before 1960

APPLICANT'S AFFIDAVIT

The Undersigned, first being duly sworn depose that all answers to the questions in this application, and all supplementary documents made a part of the application are honest and true to the best of (my)(our) knowledge and belief. (I)(We) understand this application must be complete and accurate before the application can be submitted and the hearing advertised.

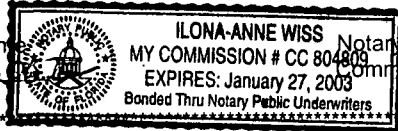
OWNER OR TENANT AFFIDAVIT

(I)(~~WE~~), Martina M. Borek, being first duly sworn, depose and say that (I am)(we are) the ☐ owner ☐ tenant of the property described and which is the subject matter of the proposed hearing.

X _____
Signature

Signature

Sworn to and subscribed to before me
this 7th day of October, 2002



Notary Public: _____
Commission Expires: _____

CORPORATION AFFIDAVIT

(I)(WE), _____, being first duly sworn, depose and say that (I am)(we are) the ☐ President ☐ Vice-President ☐ Secretary ☐ Asst. Secretary of the aforesaid corporation, and as such, have been authorized by the corporation to file this application for public hearing; and that said corporation is the ☐ owner ☐ tenant of the property described herein and which is the subject matter of the proposed hearing.

Attest: _____

Authorized Signature

Office Held

(Corp. Seal)

Sworn to and subscribed to before me
this _____ day of _____, _____

Notary Public: _____
Commission Expires: _____

PARTNERSHIP AFFIDAVIT

(I)(WE), _____, being first duly sworn, depose and say that (I am)(we are) partners of the hereinafter named partnership, and as such, have been authorized to file this application for a public hearing; and that said partnership is the ☐ owner ☐ tenant of the property described herein which is the subject matter of the proposed hearing.

By _____ %
By _____ %

(Name of Partnership)
By _____ %
By _____ %

Sworn to and subscribed to before me
this _____ day of _____, _____

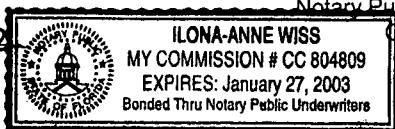
Notary Public: _____
Commission Expires: _____

ATTORNEY AFFIDAVIT

I, W. Tucker Gibbs, being first duly sworn, depose and say that I am a State of Florida Attorney at Law, and I am the Attorney for the Owner of the property described and which is the subject matter of the proposed hearing.

Signature

Sworn to and subscribed to before me
this 7th day of October, 2002



Notary Public: _____
Commission Expires: _____

**OWNERSHIP AFFIDAVIT
FOR
TRUSTEE**

STATE OF Florida

Public Hearing No. _____

COUNTY OF Miami-Dade

Before me, the undersigned authority, personally appeared Martina M. Borek,
Trustee, hereinafter the Affiant, who being duly sworn by me, on oath,
deposes and says:

1. Affiant is the Trustee of the Trust which owns the property which is the subject of the proposed hearing.
2. Affiant is legally authorized as Trustee to apply for the proposed hearing.
3. The subject property is legally described as: Please see Exhibit "A"

4. Affiant understands this affidavit is subject to the penalties of law for perjury and the possibility of voiding of any zoning granted at public hearing.

Witnesses:

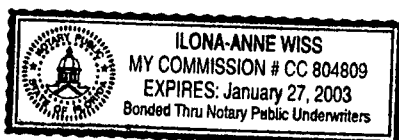
Mary Ann Esquivel-Gibbs
Signature
Mary Ann Esquivel-Gibbs
Print Name
W. Tucker Gibbs
Signature
W. TUCKER GIBBS
Print Name

x Martina M. Borek, Trustee
Affiant's signature
Martina M. Borek, Trustee
Print Name

Sworn to and subscribed before me on the _____ day of _____, 2002
Affiant is personally known to me or has produced
identification.

Ilona-Anne Wiss
Notary Public, State of Florida
Ilona-Anne-Wiss
Print Name

My Commission Expires:



RESPONSIBILITIES OF THE APPLICANT

I AM AWARE THAT:

1. The Public Works Department, the Department of Environmental Resources Management (DERM), and other County agencies review and critique zoning hearing applications which may affect the scheduling and outcome of my hearing. These reviews may require additional hearings before DERM's Environmental Quality Control Board (EQCB), or other County boards, and/or the proffering of agreements to be recorded. I am also aware that I must comply promptly with any DERM or Public Works conditions and advise this office in writing if my application will be withdrawn.

2. Filing fees may not be the total cost of a hearing. Some requests require notices to be mailed to property owners up to a mile from the subject property. In addition to mailing costs, fees related to application changes, plan revisions, deferrals, re-advertising, etc., may be incurred. Applications withdrawn within 60 days of the filing are eligible for a refund of 50% of the hearing fee but after that time hearings withdrawn or returned will be ineligible for a refund. I understand that fees must be paid promptly.

3. I am responsible for obtaining any required permits and inspections for all structures and additions proposed, or built without permits. And that a Certificate of Use (C.U.) must be obtained for the use of the property after it has been approved at Zoning Hearing. Failure to obtain the required permits and/or C.U., Certificates of Completion (C.C.) or Certificate of Occupancy (C.O.) will result in enforcement action against any occupant and owner. Submittal of the Zoning Hearing application may not forestall enforcement action against the property.

4. The 3rd District Court of Appeal has ruled that zoning applications inconsistent with the Comprehensive Development Master Plan (CDMP) cannot be approved by a zoning board based upon considerations of fundamental fairness. Therefore, I acknowledge that if the hearing request is inconsistent with the CDMP and I decide to go forward then my hearing request can only be denied or deferred, but not approved.

5. In Miami-Dade County v. Omnipoint Holdings, Inc., Case No. 3D01-2347 (Fla. 3rd DCA 2002), the 3rd District Court of Appeal has held invalid the standards for non-use variances, special exceptions, unusual uses, new uses requiring a public hearing and modification of conditions and covenants. The County Attorney's Office is seeking review of the decision in the Florida Supreme Court, as well as a stay of the decision's effect. While the case is pending, the decision is in effect and binding on all parties. Its impact is to suspend consideration of zoning applications for most special exceptions, unusual uses, non-use variances, and modification of conditions and covenants. In the interim, County staff have developed and proposed to the Board of County Commissioners certain ordinances that would provide interim standards for limited categories of applications. If these standards are enacted, certain applications may be able to proceed to hearing. However, absent a reversal by the courts or enactment of revised regulations, pending applications will not be able to proceed to hearing until the disposition of the pending litigation.

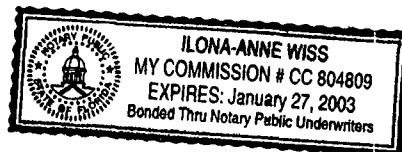
6. Any covenant to be proffered must be submitted to the Department's Legal Advisor, on County form, at least 1 month prior to the hearing date. The covenant will be reviewed and the applicant will be notified if changes or corrections are necessary. Once the covenant is acceptable, the applicant is responsible to submit the executed covenant with a current 'Opinion of Title' within 1 week of the hearing. Legal Advisor can advise as to additional requirements applicable to foreign corporations. Documents submitted to Legal Advisor must carry a cover letter indicating subject matter, application number and hearing date. Legal Advisor may be reached at (305) 375-3075

Martina M. Borek
(Applicant's Signature)

Martina M. Borek
(Print Name)

Sworn to and subscribed before me this 7th day of October, 2002. Affiant is personally known to me or has produced _____ as identification.

Ilona-Anne Wiss
(Notary Public)
My commission expires 1/27/03



DISCLOSURE OF INTEREST*

If a **CORPORATION** owns or leases the subject property, list principal stockholders and percent of stock owned by each. [Note: Where principal officers or stockholders consist of other corporation(s), trust(s), partnership(s) or similar entities, further disclosure shall be made to identify the natural persons having the ultimate ownership interest].

CORPORATION NAME: _____

| <u>NAME AND ADDRESS</u> | <u>Percentage of Stock</u> |
|-------------------------|----------------------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

X If a **TRUST or ESTATE** owns or leases the subject property, list the trust beneficiaries and percent of interest held by each. [Note: Where beneficiaries are other than natural persons, further disclosure shall be made to identify the natural persons having the ultimate ownership interest].

TRUST/ESTATE NAME: Martina M. Borek Irrevocable Family Trust

| <u>NAME AND ADDRESS</u> | <u>Percentage of Interest</u> |
|----------------------------------|-------------------------------|
| <u>Martina M. Borek, Trustee</u> | |
| <u>12110 S.W. 248th Street</u> | |
| <u>Princeton, FL 33032</u> | <u>100%</u> |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

If a **PARTNERSHIP** owns or leases the subject property, list the principals including general and limited partners. [Note: Where partner(s) consist of other partnership(s), corporation(s), trust(s) or similar entities, further disclosure shall be made to identify the natural persons having the ultimate ownership interests].

PARTNERSHIP OR LIMITED PARTNERSHIP NAME: _____

| <u>NAME AND ADDRESS</u> | <u>Percent of Ownership</u> |
|-------------------------|-----------------------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

If there is a **CONTRACT FOR PURCHASE** by a Corporation, Trust or Partnership, list purchasers below, including principal officers, stockholders, beneficiaries or partners. [Note: Where principal officers, stockholders, beneficiaries or partners consist of other corporations, trusts, partnerships or similar entities, further disclosure shall be made to identify natural persons having ultimate ownership interests].

NAME OF PURCHASER: _____

| NAME, ADDRESS AND OFFICE (if applicable) | Percentage of Interest |
|--|------------------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

Date of contract: _____

If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership or trust:

NOTICE: For changes of ownership or changes in purchase contracts after the date of the application, but prior to the date of final public hearing, a supplemental disclosure of interest is required.

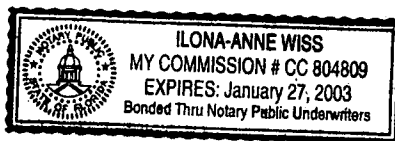
The above is a full disclosure of all parties of interest in this application to the best of my knowledge and belief.

Signature: Martina Borek
(Applicant)

Sworn to and subscribed before me this 27th day of October, 2002. Affiant is personally known to me or has produced _____ as identification.

Ilona-Anne Wiss
(Notary Public)

My commission expires 1/27/03



*Disclosure shall not be required of: 1) any entity, the equity interests in which are regularly traded on an established securities market in the United States or another country; or 2) pension funds or pension trusts of more than five thousand (5,000) ownership interests; or 3) any entity where ownership interests are held in a partnership, corporation or trust consisting of more than five thousand (5,000) separate interests, including all interests at every level of ownership and where no one (1) person or entity holds more than a total of five per cent (5%) of the ownership interest in the partnership, corporation or trust. Entities whose ownership interests are held in a partnership, corporation, or trust consisting of more than five thousand (5,000) separate interests, including all interests at every level of ownership, shall only be required to disclose those ownership interest which exceed five (5) percent of the ownership interest in the partnership, corporation or trust.